

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DUNKEL *et al.*

Appl. No.: 10/597,723

§ 371(c) Date: May 16, 2007

For: Haloalkyl Carboxamides

Confirmation No.: 5407

Art Unit: 1752

Examiner: KUMAR, Shailendra

Atty. Docket: 2400.0680000/RWE/L-Z

**Declaration Under 37 C.F.R. § 1.132**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

I, Peter Dahmen, of Altebrücker Str 61, 41470 Neuss, Germany, a citizen of Germany, hereby declare:

1. I am a biologist having studied at the University of Bonn, Germany, where I received the degree of Dr. agr; I entered the employ of Bayer Aktiengesellschaft, Leverkusen, Germany, in 1991, where I have been employed in the department of Biology Herbicides and after the spin-off from Bayer CropScience AG,<sup>1</sup> I am now an employee of this company in the department of Global Biology Fungicides; I specialize in the field of fungicide research; and I am an inventor of the above-captioned application.

2. I am familiar with the subject matter of the above-identified patent application.

3. The following tests have been carried out under my supervision and control.

4. *Septoria tritici*-test (wheat) / preventive

Solvent: 49 parts by weight of N,N-dimethylacetamide

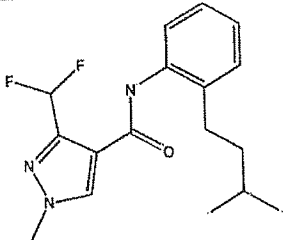
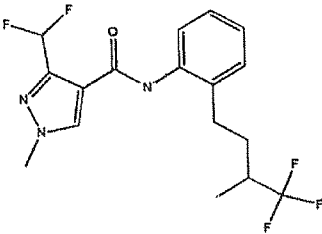
Emulsifier: 1 part by weight of alkylaryl polyglycol ether

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<sup>1</sup> Bayer CropScience AG is the assignee of the above-captioned application.

To produce a suitable preparation of active compound, 1 part by weight of active compound or active compound combination is mixed with the stated amounts of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration. To test for preventive activity, young plants are sprayed with the preparation of active compound or active compound combination at the stated rate of application. After the spray coating has been dried, the plants are sprayed with a spore suspension of *Septoria tritici*. The plants remain for 48 hours in an incubation cabinet at approximately 20°C and a relative atmospheric humidity of approximately 100%, and afterwards for 60 hours at approximately 15°C in a translucent incubation cabinet at a relative atmospheric humidity of approximately 100%. The plants are placed in the greenhouse at a temperature of approximately 15°C and a relative atmospheric humidity of approximately 80%. The test is evaluated 21 days after the inoculation. An efficacy 0% means an efficacy which corresponds to that of the untreated control, while an efficacy of 100% means that no disease is observed.

5. Table A. *Septoria tritici*-test (wheat)/preventive

| Active Compounds                               | Structure   | Application Rate of Active Compound (ppm) | Efficacy (%) |
|--|---|---|--------------|
| According to U.S. Patent No. 5,914,344         |  | 500                                       | 75           |
| According to the Instant Invention (Example 2) |  | 500                                       | 100          |

6. The undersigned declarant declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at Monheim, Germany,

2010-06-14

Date



Dr. Peter Dahmen